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c 390 Private Investigators and Security Guards Act

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CHAPTER 390

Private Investigators and Security
Guards Act

1. In this Act,

Interpre-
tation

- (a) "Commissioner" means the Commissioner of the Ontario Provincial Police Force;
- (b) "licence" means a licence under this Act;
- (c) "licensee" means the holder of a licence under this Act;
- (d) "private investigator" means a person who investigates and furnishes information for hire or reward, including a person who,
 - (i) searches for and furnishes information as to the personal character or actions of a person, or the character or kind of business or occupation of a person,
 - (ii) searches for offenders against the law, or
 - (iii) searches for missing persons or property;
- (e) "Registrar" means the Registrar of Private Investigators and Security Guards;
- (f) "regulations" means the regulations made under this Act;
- (g) "security guard" means a person who, for hire or reward, guards or patrols for the purpose of protecting persons or property. R.S.O. 1970, c. 362, s. 1.

2. This Act does not apply to,

Application
of Act

- (a) barristers or solicitors in the practice of their profession or their employees;
- (b) persons who search for and furnish information,

- (i) as to the financial credit rating of persons,
 - (ii) to employers as to the qualifications and suitability of their employees or prospective employees, or
 - (iii) as to the qualifications and suitability of applicants for insurance and indemnity bonds,
- and who do not otherwise act as private investigators;
- (c) members of the Corps of Commissionaires while acting within the objects of its incorporation;
 - (d) a person who is acting as a peace officer;
 - (e) insurance adjusters and their employees licensed under the *Insurance Act* while acting in the usual and regular scope of their employment;
 - (f) insurance companies and their employees licensed under the *Insurance Act* while acting in the usual and regular scope of their employment;
 - (g) private investigators and security guards who are permanently employed by one employer in a business or undertaking other than the business of providing private investigators or security guards and whose work is confined to the affairs of that employer;
 - (h) employees of a municipality as defined in the *Municipal Affairs Act* while acting within the scope of their employment;
 - (i) persons residing outside Ontario who are *bona fide* employees of private investigation or security guard agencies licensed or registered in a jurisdiction outside Ontario who,
 - (i) on behalf of an employer or client who resides outside Ontario, make an investigation or inquiry partly outside Ontario and partly within Ontario, and
 - (ii) come into Ontario solely for the purpose of such investigation or inquiry; and
 - (j) any class of persons exempted by the regulations.

R.S.O. 1980,
c. 218

R.S.O. 1980,
c. 303

R.S.O. 1970, c. 362, s. 2; 1972, c. 1, s. 104 (6).

3.—(1) There shall be a Registrar of Private Investigators and Security Guards appointed by the Lieutenant Governor in Council who may exercise the powers and shall discharge the duties vested in or imposed upon him by this Act or the regulations, under the direction of the Commissioner. Registrar

(2) The Lieutenant Governor in Council may appoint a Deputy Registrar of Private Investigators and Security Guards who shall act as Registrar during the absence of the Registrar or his inability to act. R.S.O. 1970, c. 362, s. 3. Deputy Registrars

4.—(1) No person shall,

Licences

- (a) engage in the business of providing private investigators or security guards;
- (b) operate a branch office or place at which the public is invited to deal in the conduct of the business of providing private investigators or security guards; or

(c) act as a private investigator or security guard,

unless he is the holder of a licence therefor.

(2) No person shall hold himself out as acting as a private investigator or a security guard or as being engaged in the business of providing private investigators or security guards unless he is licensed under this Act. R.S.O. 1970, c. 362, s. 4. Holding out

5.—(1) Every applicant for a licence to engage in the business of providing private investigators or security guards shall apply to the Registrar for the licence and the licences for each branch office and each employee who is a private investigator or security guard, if any, upon the prescribed form which shall be accompanied by the prescribed fees and a bond in the prescribed amount and form. Application for licence

(2) The bond shall be,

Type of bond

- (a) a personal bond accompanied by collateral security;
- (b) a bond of a guarantee company approved under the *Guarantee Companies Securities Act*; or
- (c) a bond of a guarantor, other than a guarantee company, accompanied by collateral security.

R.S.O. 1980,
c. 192

(3) The collateral security shall be negotiable securities of the classes prescribed by the regulations, not less in value Collateral security

than the sum secured by the bond, and shall be deposited with the Treasurer of Ontario.

Employer
to ensure
employees
licensed

(4) No person engaged in the business of providing private investigators or security guards shall employ as a private investigator or security guard a person who is not the holder of a licence. R.S.O. 1970, c. 362, s. 5.

Address for
service

6.—(1) Every applicant for a licence shall state in the application an address for service in Ontario, and all notices under this Act or the regulations are sufficiently given or served for all purposes if sent by registered mail or delivered to the latest address for service so stated.

Notice of
changes in
business

(2) Every person licensed to engage in the business of providing private investigators or security guards shall within five days notify the Registrar in writing of,

- (a) any change in his address for service or in the address of any place at which he carries on business or at which he invites the public to deal;
- (b) any change in the officers or members in the case of an association of individuals, partnership or corporation; and
- (c) any termination of employment of a private investigator or security guard. R.S.O. 1970, c. 362, s. 6.

Investigation
of applicant

7.—(1) The Registrar or any person authorized by him may make such inquiry and investigation as he considers sufficient regarding the character, financial position and competence of an applicant or licensee and may require an applicant to try such examinations to determine competence as the Registrar considers necessary.

Further
information

(2) The Registrar may require further information or material to be submitted by an applicant or a licensee and may require verification by affidavit or otherwise of any information or material then or previously submitted. R.S.O. 1970, c. 362, s. 7.

Issuance
of licence

8.—(1) The Registrar shall issue a licence or renewal of a licence where in the opinion of the Registrar the proposed licensing is not against the public interest, and the licence may be subject to terms and conditions.

Hearings

(2) The Registrar shall not refuse to grant or refuse to renew a licence without giving the applicant an opportunity to be heard. R.S.O. 1970, c. 362, s. 8.

9.—(1) Where a person applies for a licence to act as a private investigator or security guard, the Registrar may, pending his decision, issue a temporary licence to so act for a period stated in the licence but not exceeding three months.

(2) Where a person who is licensed to engaged in the business of providing private investigators or security guards dies, the Registrar may grant to his executor or administrator a temporary licence, and all licensed employees of a deceased licensee at the time of his death shall be deemed to be licensed as employees of such executor or administrator.

(3) Every temporary licence terminates in accordance with the regulations. R.S.O. 1970, c. 362, s. 9.

10. A licence is not transferable. R.S.O. 1970, c. 362, s. 10.

11.—(1) Every licence and renewal of licence, other than a temporary licence, expires on the 31st day of March in each year.

(2) Every applicant for renewal of a licence to engage in the business of providing private investigators or security guards shall, on or before the 1st day of March in each year, apply to the Registrar for the renewal of the licence and the renewal of the licences for each branch office and each employee who is a private investigator or security guard, if any, upon the prescribed form which shall be accompanied by the prescribed fees. R.S.O. 1970, c. 362, s. 11.

12. Immediately upon the receipt of a licence to engage in the business of providing private investigators or security guards, the licensee shall cause it to be displayed in a conspicuous place in the office or branch office of the business for which it is issued. R.S.O. 1970, c. 362, s. 12.

13.—(1) The licence of a private investigator or security guard is cancelled upon the termination of the employment in respect of which it was issued.

(2) When a licensed private investigator or security guard ceases to be employed as such, he shall give his licence and identification card immediately to his employer who shall forward them to the Registrar.

(3) Every person who is licensed to engage in the business of providing private investigators or security guards shall immediately upon the termination of such business forward

to the Registrar his licence and identification card together with the licences and identification cards of his employees. R.S.O. 1970, c. 362, s. 13.

**Suspension
and
cancellation**

14. The Registrar may, after giving the licensee an opportunity to be heard, suspend or cancel a licence where,

R.S.C. 1972,
c. C-34

(a) the licensee is convicted of an offence under the *Criminal Code* (Canada) or under this Act or the regulations;

(b) the licensee is in breach of a term or condition of the licence; or

(c) in the opinion of the Registrar, to do so is in the public interest. R.S.O. 1970, c. 362, s. 14.

Reasons

15. Where the Registrar refuses to grant a licence or renewal of a licence, or suspends or cancels a licence, he shall, upon the request of the person whose licence or right to a licence is affected, give written reasons for his decision. R.S.O. 1970, c. 362, s. 15.

**Further
application**

16. A further application for a licence may be made upon new or other evidence or where it is clear that material circumstances have changed. R.S.O. 1970, c. 362, s. 16.

Complaints

17.—(1) Where the Registrar receives a complaint in respect of the carrying on of the business of providing private investigators or security guards and so requests in writing, the person carrying on the business shall furnish the Registrar with such information respecting the matter complained of as the Registrar may require.

**Inspection
of records**

(2) For the purposes of subsection (1), the Registrar or any person designated in writing by him may at any time make an inspection of the books, documents and records of any licensee.

Access

(3) Upon an inspection under subsection (2), the person inspecting is entitled to free access to all books of account, cash, documents, bank accounts, vouchers, correspondence and records of every description of the licensee, and no person shall withhold or destroy, conceal or refuse to furnish any information or thing required by the person inspecting for the purposes of the inspection. R.S.O. 1970, c. 362, s. 17.

**Information
confidential**

18. Any information received by the Registrar or the Commissioner in connection with an application or a record or return required under this Act or in the course of an

inquiry or investigation authorized by this Act shall not be disclosed without the consent of the Commissioner. R.S.O. 1970, c. 362, s. 18.

19.—(1) The Registrar shall serve upon any person, who in the opinion of the Registrar is affected thereby, a notice of every direction, decision, order or ruling of the Registrar. ^{Notice of direction, decision, etc.}

(2) Where a service under subsection (1) is made upon a person who is not a licensee, the service may be made by sending the notice by registered mail to the last-known address of the person to be served. R.S.O. 1970, c. 362, s. 19. ^{Service}

20.—(1) Any person whose licence or right to a licence is affected by a decision of the Registrar may, by notice in writing served upon the Registrar within thirty days after the delivery of the notice under section 19, request a hearing and review of the matter by the Commissioner. ^{Review}

(2) Where a hearing and review are requested, the Commissioner shall serve notice upon the person who requested the review notifying him of the time and place of the hearing which shall be within thirty days of the serving of the notice under subsection (1), except with the consent of the person who requested the review. ^{Notice of hearing}

(3) Upon a review, the Commissioner shall hear such evidence as is submitted to him that in his opinion is relevant to the matter in dispute, and all oral evidence submitted shall be taken down in writing and, together with such documentary evidence and things as are received in evidence by him, forms the record. ^{Evidence}

(4) Upon a review, the Commissioner may, ^{Evidence on review}

- (a) administer oaths to witnesses and require them to give evidence under oath; and
- (b) require to have issued out of the Supreme Court a writ of subpoena *ad testificandum* or a writ of subpoena *duces tecum* which the court shall issue, but no person shall be compelled under any such writ to produce any document that he would not be compellable to produce on the trial of an action.

(5) Upon a review, the Commissioner may by his order direct the Registrar to make such decision as the Registrar is authorized to make under this Act and as the Commissioner considers proper and for this purpose the Commissioner may substitute his opinion for that of the Registrar. ^{Decision of Commissioner}

**Notice of
decision and
reasons**

(6) Notice of the decision of the Commissioner made upon a review shall be served forthwith upon the person who requested the review.

Reasons

(7) Upon the request of the person who requested a review, the Commissioner shall give written reasons for his decision made upon the review. R.S.O. 1970, c. 362, s. 20.

Appeal

21.—(1) Where the Commissioner has reviewed a decision and given his decision upon the review, the person who requested the review may appeal from the decision to the Divisional Court in accordance with the rules of court.

**Form of
appeal**

(2) Every appeal shall be by notice of motion served upon the Commissioner within thirty days after the delivery of the notice of decision under subsection 20 (6).

**Material
on appeal**

(3) The Commissioner shall certify to the Registrar of the Supreme Court,

- (a) the decision that has been reviewed by him;
- (b) his decision upon the review, together with his reasons therefor;
- (c) the record of the review; and
- (d) all written submissions to him and other material received by him in connection with the review.
R.S.O. 1970, c. 362, s. 21 (1-3).

Counsel

(4) The Solicitor General may designate counsel to assist the court upon the hearing of an appeal under this section. R.S.O. 1970, c. 362, s. 21 (4); 1972, c. 1, s. 98 (1).

**Decision
of court**

(5) Upon an appeal, the court may by its order direct the Registrar to make such decision as the Registrar is authorized to make under this Act and as the court considers proper, and for this purpose the court may substitute its opinion for that of the Registrar and the Commissioner.

**Appeal
final**

(6) The order of the court is final, but a further application for a licence may be made upon new or other evidence or where it is clear that material circumstances have changed. R.S.O. 1970, c. 362, s. 21 (5, 6).

22. Every person whose licence or right to a licence may be affected by a hearing under this Act is entitled to be represented by counsel at the hearing. R.S.O. 1970, c. 362, s. 22. Right to counsel

23.—(1) No person engaged in any business or employment, whether licensed under this Act or otherwise, shall use the expression "private detective" in connection with such business or employment or hold himself out in any manner as a private detective. Use of expression "private detective" prohibited

(2) No person shall engage in the business of providing private investigators or security guards in a name other than that in which he is licensed. R.S.O. 1970, c. 362, s. 23. Name of business

24. No person shall divulge to anyone, except as is legally authorized or required, any information acquired by him as a private investigator. R.S.O. 1970, c. 362, s. 24. Information to be confidential

25.—(1) No person acting as a private investigator shall have in his possession or display any badge, shield, card or other identification or evidence of authority except, Means of identification

(a) the prescribed identification card issued under this Act; and

(b) a business card containing no reference to licensing under this Act.

(2) Every private investigator shall, while investigating, carry on his person the prescribed identification card issued to him under this Act and shall produce it for inspection at the request of any person. Identification card to be carried

(3) No private investigator who is also licensed as a security guard shall act as a private investigator while in uniform. R.S.O. 1970, c. 362, s. 25. Use of uniform

26. No person shall act as a private investigator unless he is twenty-one years of age or over and no person shall act as a security guard unless he is eighteen years of age or over. R.S.O. 1970, c. 362, s. 26. Age limit

27. Every security guard shall wear a uniform while acting as a security guard. R.S.O. 1970, c. 362, s. 27. Uniforms

28.—(1) Every security guard while on duty shall carry on his person the prescribed identification card issued to him Identification card

under this Act and shall produce it for inspection at the request of any person.

**Evidence of
authority**

(2) No security guard while on duty shall have in his possession or display any evidence of authority except his uniform and the prescribed identification card issued under this Act. R.S.O. 1970, c. 362, s. 28.

**Licensees
not to be
collectors
or bailiffs**

29. No licensee shall act as a collector of accounts or bailiff, or undertake, or hold himself out, or advertise as undertaking, to collect accounts or act as a bailiff for any person either with or without remuneration. R.S.O. 1970, c. 362, s. 29.

**Holding
out as
police**

30. No licensee shall hold himself out in any manner as performing or providing services or duties connected with police. R.S.O. 1970, c. 362, s. 30.

Advertising

31. Where, in the opinion of the Registrar, any person licensed under this Act is making false, misleading or deceptive statements in any advertisement, circular, pamphlet or similar material, the Registrar may order the immediate cessation of the use of such material. R.S.O. 1970, c. 362, s. 31.

Offences

32.—(1) Every person who,

- (a) knowingly furnishes false information in any application under this Act or in any statement or return required to be furnished under this Act or the regulations;
- (b) fails to comply with any order, direction or other requirement made under this Act or the regulations; or
- (c) contravenes any provision of this Act or the regulations,

is guilty of an offence and on conviction is liable to a fine of not more than \$2,000 or to imprisonment for a term of not more than one year, or to both.

Corporations

(2) Where a corporation is convicted of an offence under subsection (1), the maximum penalty that may be imposed is \$25,000 and not as provided therein. R.S.O. 1970, c. 362, s. 32 (1, 2).

**Consent of
Solicitor
General**

(3) No proceedings under this section shall be instituted except with the consent of the Solicitor General. R.S.O. 1970, c. 362, s. 32 (3); 1972, c. 1, s. 98 (2).

(4) No proceedings under this section shall be commenced ^{Limitation} more than one year after the facts upon which the proceedings are based first came to the knowledge of the Commissioner. R.S.O. 1970, c. 362, s. 32 (4).

33. A statement as to,

Certificate
as evidence

- (a) the licensing or non-licensing of any person;
- (b) the filing or non-filing of any document or material required or permitted to be filed with the Registrar;
- (c) the time when the facts upon which proceedings are based first came to the knowledge of the Commissioner; or
- (d) any other matter pertaining to such licensing, non-licensing, filing or non-filing or to any such person, document or material,

purporting to be certified by the Commissioner is, without proof of the office or signature of the Commissioner, receivable in evidence as *prima facie* proof of the facts stated therein for all purposes in any action, proceeding or prosecution. R.S.O. 1970, c. 362, s. 33.

34. The Lieutenant Governor in Council may make ^{Regulations} regulations,

- (a) prescribing the classes of persons who shall be exempt from this Act or from any provision thereof, in addition to those classes of persons mentioned in section 2;
- (b) prescribing forms and providing for their use;
- (c) requiring the payment of fees in connection with the issuance or renewal of licences and prescribing the amounts thereof;
- (d) governing the procedure for the issuance of licences and renewals and prescribing the terms and conditions thereof;
- (e) prescribing the amount and form of bonds to be furnished under this Act, the classes of securities that are acceptable as collateral security, the conditions of forfeiture of bonds, the conditions upon which bonds may be cancelled, the period that bonds shall subsist, and respecting all matters subsequent to forfeiture;

- (f) prescribing the form and contents of identification cards for licensees and providing for the issuance thereof;
- (g) requiring the keeping of such books and records and the furnishing of such information and returns by licensees as are prescribed;
- (h) governing the uniforms, badges and insignia that shall be worn by security guards;
- (i) governing contracts entered into by persons engaged in the business of providing private investigators or security guards with persons who engage their services;
- (j) governing the method of terminating the business of providing private investigators or security guards;
- (k) respecting any matter necessary or advisable to carry out effectively the intent and purpose of this Act. R.S.O. 1970, c. 362, s. 34.